## BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

LORETTA B. SCHONEMAN	)
Claimant VS.	Da akat Na 100 201
STATE OF KANSAS Respondent	) Docket No. 199,264
AND	{
STATE SELF INSURANCE FUND Insurance Carrier	}

## <u>ORDER</u>

Respondent filed an Application for Review requesting Appeals Board review of a Preliminary Hearing Order entered by Administrative Law Judge Robert H. Foerschler on August 7, 1995.

## Issues

Respondent raised the sole issue of whether claimant's accidental injury arose out of and in the course of her employment with the respondent.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the Preliminary Hearing transcript and considering the briefs of the parties, the Appeals Board finds as follows:

The Administrative Law Judge found that claimant was injured in a work-related accident on January 31, 1995. Respondent was ordered to provide claimant with medical treatment and temporary total disability benefits. Respondent appeals and argues that claimant's injuries were caused by a personal condition that was not incidental to her employment.

Claimant was injured when she fell at the health center located on the premises of the respondent, Kansas State School for the Blind, during her regular working shift. Claimant was in the health center to see the nurse on duty, on the morning of January 31, 1995, because she was not feeling well. The nurse took the claimant's blood pressure,

which was quite low, and had the claimant lie down while she called claimant's personal physician. The nurse returned after she contacted the claimant's personal physician and told the claimant that her doctor wanted her to go home. As the claimant was getting up from the bed in the health center, she testified that she stepped on some orange juice she had spilled on the floor. Her foot slipped on the orange juice and she fell backwards on the cement floor, hitting her head and tailbone. Claimant lost consciousness after her head struck the cement floor. She was immediately taken to the emergency room at the University of Kansas Medical Center for examination and treatment. She was subsequently referred to John A. Holmes, M.D., for treatment of her head, tailbone and cervical injuries.

The controlling question, in this case, is whether claimant's fall arose out of and in the course of her employment. K.S.A. 44-501(a). An injury arises "out of" employment if it arises out of the nature, conditions, obligations, and incidents of the employment. Siebert v. Hoch, 199 Kan. 299, 428 P. 2d 825 (1967). The Administrative Law Judge found that claimant's fall, which occurred at the health center located on respondent's premises, was caused by her slipping on spilled orange juice, not by her low blood pressure. The claimant testified that she did not black out until she lost consciousness after her head hit the concrete floor. Claimant further testified that she did not realize that she had slipped on the orange juice until she returned to work and observed the accident scene at the health center. She explained that this was the reason she did not provide contemporaneously the history of slipping on the floor to the treating medical personnel.

The Administrative Law Judge had an opportunity to observe the claimant in person and found claimant's explanation of how her accidental injury occurred as plausible. Accordingly, the Appeals Board affirms the Administrative Law Judge's decision that granted claimant compensation benefits and found that claimant's fall and resulting injury arose out of and in the course of her employment with the respondent.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge Robert H. Foerschler dated August 7, 1995, should be, and is hereby, affirmed.

II IS SO ORDERED.	
Dated this day of Oo	ctober, 1995.
	BOARD MEMBER
	BOARD MEMBER
	BOARD MEMBER

William W. Hutton II, Kansas City, Kansas Debera A. Erickson, Kansas City, Kansas

C:

Robert H. Foerschler, Administrative Law Judge Philip S. Harness, Director